

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

ASSOCIATION OF NEW JERSEY  
RIFLE & PISTOL CLUBS, INC.;  
BLAKE ELLMAN; and  
ALEXANDER DEMBOWSKI,

Plaintiffs,

vs.

GURBIR GREWAL, in his official  
capacity as Attorney General of New  
Jersey; PATRICK J. CALLAHAN, in  
his official capacity as Superintendent  
of the New Jersey Division of State  
Police; THOMAS WILLIVER, in his  
official capacity as Chief of Police of  
the Chester Police Department; and  
JAMES B. O'CONNOR, in his official  
capacity as Chief of Police of the  
Lyndhurst Police Department,

Defendants.

Hon. Peter G. Sheridan, United States  
District Judge

Hon. Lois H. Goodman, United States  
Magistrate Judge

**Civil Action No. 18-cv-10507**

**MEMORANDUM OF LAW IN  
SUPPORT OF UNOPPOSED  
MOTION FOR LEAVE TO FILE  
*AMICUS CURIAE* BRIEF OF  
GIFFORDS LAW CENTER TO  
PREVENT GUN VIOLENCE IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PRELIMINARY  
INJUNCTION MOTION**

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With the consent of all parties, Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) respectfully moves for leave to file the attached *amicus curiae* brief.

Giffords Law Center is a national, non-profit organization dedicated to reducing gun violence. It was founded 25 years ago after a mass shooting at a San Francisco law firm perpetrated by a gunman armed with semiautomatic pistols and large-capacity magazines.<sup>1</sup> The organization was renamed Giffords Law Center in 2017 after joining forces with the gun-safety group founded by former Congresswoman Gabrielle Giffords. Today, Giffords Law Center provides comprehensive legal expertise in support of effective violence-prevention policies and programs. It has provided informed analysis of social science research and Second Amendment law as an *amicus* in numerous cases, and several courts have cited research and information from Giffords Law Center’s briefs in their decisions. *E.g.*, *Stimmel v. Sessions*, 879 F.3d 198, 208 (6th Cir. 2018); *Peruta v. Cty. of San Diego*, 824 F.3d 919, 943 (9th Cir. 2016) (en banc) (Graber, J., concurring).<sup>2</sup>

District courts have discretion whether to grant leave to file an *amicus* brief.

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<sup>1</sup> See Rachel Swan, *Legacy of ’93 SF Rampage: The Mass Shooting at 101 California Has Shaped Gun Politics and Policies for Decades*, SF CHRONICLE, July 2, 2018.

<sup>2</sup> Giffords Law Center filed these briefs under its former name, the Law Center to Prevent Gun Violence.

*See, e.g., United States v. Alkaabi*, 223 F. Supp. 2d 583, 592 (D.N.J. 2002). The Court’s discretion may be informed by the Third Circuit’s application of Federal Rule of Appellate Procedure 29, which requires explanation of “why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.” Fed. R. App. P. 29(b)(2). The Third Circuit recognizes that a “broad reading” of Rule 29(b)(2) is “prudent” and that “[e]ven when a party is very well represented, an amicus may provide important assistance to the court.”

*Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 132 (3d Cir. 2002) (Alito, J.).

Giffords Law Center’s participation in this case is desirable under Rule 29 because the organization has “particular expertise” about gun policy and large-capacity magazine laws. *See Neonatology Assocs.*, 293 F.3d at 132. Participation is also desirable because the principle at stake in this case—the ability of state legislatures to regulate the magazines that have become a favored tool of mass shooters—is fundamental to Giffords Law Center’s mission and critically important to its members. This Court’s decision on Plaintiffs’ motion for a preliminary injunction will immediately affect those interests in New Jersey and could be persuasive to courts adjudicating similar cases nationally. One such case is a Second Amendment challenge pending in California over large-capacity magazine regulations that Giffords Law Center drafted as part of a state ballot initiative. *Duncan v. Becerra*, 265 F. Supp. 3d 1106 (S.D. Cal. 2017), *appeal*

*docketed*, No 17-56081 (9th Cir. Jul. 27, 2017).

The proposed *amicus* brief also asserts matters “relevant to the disposition” of Plaintiffs’ Second Amendment claim. Fed. R. App. P. 29(b)(2); *see also Neonatology Assocs.*, 293 F.3d at 132 (*amicus* briefs that “collect background or factual references that merit judicial notice” or advance arguments underemphasized by the parties can be useful). Giffords Law Center’s brief presents relevant information and empirical evidence about the dangers of large-capacity magazines; describes why New Jersey’s possession ban is necessary to achieve the state’s public safety goals; and advances legal arguments that these magazines fall outside the scope of the Second Amendment’s protections.

In addition to Rule 29, this Court has considered three factors when assessing a motion for leave to file an *amicus* brief: (1) whether an *amicus* party has a “special interest,” (2) whether the party’s special interest is not represented in the case, and (3) whether proposed brief is “timely and useful.” *See, e.g., Alkaabi*, 223 F. Supp. 2d at 592 (applying these and dismissing a fourth factor—the “*amicus* is not partial to a particular outcome”—after finding that “[p]arties with pecuniary and policy interests have been regularly allowed to appear as *amici* in our courts”). These factors, too, are satisfied here. As discussed above, Giffords Law Center has a unique interest in the outcome of this litigation, and its interest as a national policy organization is not represented by the parties. Furthermore, the brief

presents useful information and is timely filed one day after the State's brief with consent from both parties.

For the foregoing reasons, Giffords Law Center respectfully requests that the Court grant its motion for leave to file an *amicus* brief.

Dated: Newark, New Jersey  
July 6, 2018

Respectfully Submitted,

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